



General Assembly

February Session, 2014

Amendment

LCO No. 4735

SB0037104735SR0

Offered by:

SEN. MARKLEY, 16th Dist.

To: Senate Bill No. 371

File No. 327

Cal. No. 237

"AN ACT CONCERNING RETALIATION AGAINST IMMIGRANT WORKERS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 46a-60 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2014*):

5 (a) It shall be a discriminatory practice in violation of this section:

6 (1) For an employer, by the employer or the employer's agent,
7 except in the case of a bona fide occupational qualification or need, to
8 refuse to hire or employ or to bar or to discharge from employment
9 any individual or to discriminate against such individual in
10 compensation or in terms, conditions or privileges of employment
11 because of the individual's race, color, religious creed, age, sex, gender
12 identity or expression, marital status, national origin, ancestry, present
13 or past history of mental disability, intellectual disability, learning
14 disability or physical disability, including, but not limited to,

15 blindness;

16 (2) For any employment agency, except in the case of a bona fide
17 occupational qualification or need, to fail or refuse to classify properly
18 or refer for employment or otherwise to discriminate against any
19 individual because of such individual's race, color, religious creed, age,
20 sex, gender identity or expression, marital status, national origin,
21 ancestry, present or past history of mental disability, intellectual
22 disability, learning disability or physical disability, including, but not
23 limited to, blindness;

24 (3) For a labor organization, because of the race, color, religious
25 creed, age, sex, gender identity or expression, marital status, national
26 origin, ancestry, present or past history of mental disability,
27 intellectual disability, learning disability or physical disability,
28 including, but not limited to, blindness of any individual to exclude
29 from full membership rights or to expel from its membership such
30 individual or to discriminate in any way against any of its members or
31 against any employer or any individual employed by an employer,
32 unless such action is based on a bona fide occupational qualification;

33 (4) For any person, employer, labor organization or employment
34 agency to discharge, expel or otherwise discriminate against any
35 person because such person has opposed any discriminatory
36 employment practice or because such person has filed a complaint or
37 testified or assisted in any proceeding under section 46a-82, 46a-83 or
38 46a-84;

39 (5) For any person, whether an employer or an employee or not, to
40 aid, abet, incite, compel or coerce the doing of any act declared to be a
41 discriminatory employment practice or to attempt to do so;

42 (6) For any person, employer, employment agency or labor
43 organization, except in the case of a bona fide occupational
44 qualification or need, to advertise employment opportunities in such a
45 manner as to restrict such employment so as to discriminate against
46 individuals because of their race, color, religious creed, age, sex,

47 gender identity or expression, marital status, national origin, ancestry,
48 present or past history of mental disability, intellectual disability,
49 learning disability or physical disability, including, but not limited to,
50 blindness;

51 (7) For an employer, by the employer or the employer's agent: (A)
52 To terminate a woman's employment because of her pregnancy; (B) to
53 refuse to grant to that employee a reasonable leave of absence for
54 disability resulting from her pregnancy; (C) to deny to that employee,
55 who is disabled as a result of pregnancy, any compensation to which
56 she is entitled as a result of the accumulation of disability or leave
57 benefits accrued pursuant to plans maintained by the employer; (D) to
58 fail or refuse to reinstate the employee to her original job or to an
59 equivalent position with equivalent pay and accumulated seniority,
60 retirement, fringe benefits and other service credits upon her
61 signifying her intent to return unless, in the case of a private employer,
62 the employer's circumstances have so changed as to make it impossible
63 or unreasonable to do so; (E) to fail or refuse to make a reasonable
64 effort to transfer a pregnant employee to any suitable temporary
65 position which may be available in any case in which an employee
66 gives written notice of her pregnancy to her employer and the
67 employer or pregnant employee reasonably believes that continued
68 employment in the position held by the pregnant employee may cause
69 injury to the employee or fetus; (F) to fail or refuse to inform the
70 pregnant employee that a transfer pursuant to subparagraph (E) of this
71 subdivision may be appealed under the provisions of this chapter; or
72 (G) to fail or refuse to inform employees of the employer, by any
73 reasonable means, that they must give written notice of their
74 pregnancy in order to be eligible for transfer to a temporary position;

75 (8) For an employer, by the employer or the employer's agent, for an
76 employment agency, by itself or its agent, or for any labor
77 organization, by itself or its agent, to harass any employee, person
78 seeking employment or member on the basis of sex or gender identity
79 or expression. "Sexual harassment" shall, for the purposes of this
80 section, be defined as any unwelcome sexual advances or requests for

81 sexual favors or any conduct of a sexual nature when (A) submission
82 to such conduct is made either explicitly or implicitly a term or
83 condition of an individual's employment, (B) submission to or rejection
84 of such conduct by an individual is used as the basis for employment
85 decisions affecting such individual, or (C) such conduct has the
86 purpose or effect of substantially interfering with an individual's work
87 performance or creating an intimidating, hostile or offensive working
88 environment;

89 (9) For an employer, by the employer or the employer's agent, for an
90 employment agency, by itself or its agent, or for any labor
91 organization, by itself or its agent, to request or require information
92 from an employee, person seeking employment or member relating to
93 the individual's child-bearing age or plans, pregnancy, function of the
94 individual's reproductive system, use of birth control methods, or the
95 individual's familial responsibilities, unless such information is
96 directly related to a bona fide occupational qualification or need,
97 provided an employer, through a physician may request from an
98 employee any such information which is directly related to workplace
99 exposure to substances which may cause birth defects or constitute a
100 hazard to an individual's reproductive system or to a fetus if the
101 employer first informs the employee of the hazards involved in
102 exposure to such substances;

103 (10) For an employer, by the employer or the employer's agent, after
104 informing an employee, pursuant to subdivision (9) of this subsection,
105 of a workplace exposure to substances which may cause birth defects
106 or constitute a hazard to an employee's reproductive system or to a
107 fetus, to fail or refuse, upon the employee's request, to take reasonable
108 measures to protect the employee from the exposure or hazard
109 identified, or to fail or refuse to inform the employee that the measures
110 taken may be the subject of a complaint filed under the provisions of
111 this chapter. Nothing in this subdivision is intended to prohibit an
112 employer from taking reasonable measures to protect an employee
113 from exposure to such substances. For the purpose of this subdivision,
114 "reasonable measures" shall be those measures which are consistent

115 with business necessity and are least disruptive of the terms and
116 conditions of the employee's employment;

117 (11) For an employer, by the employer or the employer's agent, for
118 an employment agency, by itself or its agent, or for any labor
119 organization, by itself or its agent: (A) To request or require genetic
120 information from an employee, person seeking employment or
121 member, or (B) to discharge, expel or otherwise discriminate against
122 any person on the basis of genetic information. For the purpose of this
123 subdivision, "genetic information" means the information about genes,
124 gene products or inherited characteristics that may derive from an
125 individual or a family member.

126 (b) (1) The provisions of this section concerning age shall not apply
127 to: (A) The termination of employment of any person with a contract of
128 unlimited tenure at an independent institution of higher education
129 who is mandatorily retired, on or before July 1, 1993, after having
130 attained the age of seventy; (B) the termination of employment of any
131 person who has attained the age of sixty-five and who, for the two
132 years immediately preceding such termination, is employed in a bona
133 fide executive or a high policy-making position, if such person is
134 entitled to an immediate nonforfeitable annual retirement benefit
135 under a pension, profit-sharing, savings or deferred compensation
136 plan, or any combination of such plans, from such person's employer,
137 which equals, in aggregate, at least forty-four thousand dollars; (C) the
138 termination of employment of persons in occupations, including police
139 work and fire-fighting, in which age is a bona fide occupational
140 qualification; (D) the operation of any bona fide apprenticeship system
141 or plan; or (E) the observance of the terms of a bona fide seniority
142 system or any bona fide employee benefit plan for retirement, pensions
143 or insurance which is not adopted for the purpose of evading said
144 provisions, except that no such plan may excuse the failure to hire any
145 individual and no such system or plan may require or permit the
146 termination of employment on the basis of age. No such plan which
147 covers less than twenty employees may reduce the group hospital,
148 surgical or medical insurance coverage provided under the plan to any

149 employee who has reached the age of sixty-five and is eligible for
150 Medicare benefits or any employee's spouse who has reached age
151 sixty-five and is eligible for Medicare benefits except to the extent such
152 coverage is provided by Medicare. The terms of any such plan which
153 covers twenty or more employees shall entitle any employee who has
154 attained the age of sixty-five and any employee's spouse who has
155 attained the age of sixty-five to group hospital, surgical or medical
156 insurance coverage under the same conditions as any covered
157 employee or spouse who is under the age of sixty-five.

158 (2) No employee retirement or pension plan may exclude any
159 employee from membership in such plan or cease or reduce the
160 employee's benefit accruals or allocations under such plan on the basis
161 of age. The provisions of this subdivision shall be applicable to plan
162 years beginning on or after January 1, 1988, except that for any
163 collectively bargained plan this subdivision shall be applicable on the
164 earlier of (A) January 1, 1990, or (B) the later of (i) the expiration date
165 of the collective bargaining agreement, or (ii) January 1, 1988.

166 (3) The provisions of this section concerning age shall not prohibit
167 an employer from requiring medical examinations for employees for
168 the purpose of determining such employees' physical qualification for
169 continued employment.

170 (4) Any employee who continues employment beyond the normal
171 retirement age in the applicable retirement or pension plan shall give
172 notice of intent to retire, in writing, to such employee's employer not
173 less than thirty days prior to the date of such retirement.

174 (c) The provisions of this section shall not apply to any person,
175 employer, labor organization or employment agency that discharges or
176 expels, fails or refuses to classify properly or refer for employment,
177 refuses to hire or employ, bars or discharges from employment or
178 otherwise discriminates against an employee or person seeking
179 employment because such employee or person seeking employment
180 (1) has been diagnosed by a psychiatrist licensed pursuant to chapter

181 370 as suffering from pedophilia, and (2) currently works in an
182 environment or is seeking work in an environment that may require
183 any interaction with a child, as defined in section 49b-120."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2014	46a-60